

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

IN RE: PHENYLPROPANOLAMINE
(PPA) PRODUCTS LIABILITY
LITIGATION,

MDL NO. 1407

ORDER GRANTING MOTION FOR
RELIEF FROM DEADLINE
AND/OR TO ALLOW RESPONSE
TO DEFENDANT SANDY FOODS,
WALMART, AND ECKERD'S
MOTION TO DISMISS

This document relates to:

Young v. Chattem, et al.,
No. 02-0778

THIS MATTER comes before the court on plaintiff Jacqueline Young's March 22, 2005 "Motion for Relief From Deadline And/Or Allow Response to Defendant Sandy Foods, Walmart, and Eckerd's February 22, 2005 Motion to Dismiss with Prejudice and Brief in Support of." The court having reviewed the briefing and being fully advised, finds and rules as follows:

Plaintiff did not file a timely opposition to the February 22, 2005 motion to dismiss filed by defendants Sandy Foods, Walmart and Eckerd's. On March 22, 2005, plaintiff filed the instant motion seeking permission to file a late opposition to defendants' motion. Counsel for the plaintiff explains that defendants failed to serve him with the motion because they used

1 an incorrect email address. Defendants concede that the email
2 address they had for plaintiff's counsel was incorrect, but
3 contend that defendants had no obligation to serve plaintiff with
4 the motion, since plaintiff was served through the court's
5 Electronic Case Filing system.

6 The court's January 21, 2004 Supplemental Order re Use of
7 Case Management Electronic Filing System and Service of Pleadings
8 makes it clear that filing a pleading electronically does not
9 satisfy service requirements on opposing counsel. The court,
10 therefore, is of the opinion that plaintiff was not properly
11 served with defendants' February 22, 2005 motion.

12 IT IS HEREBY ORDERED that plaintiff may have up to and
13 including May 19, 2005, to file an opposition to Defendants Sandy
14 Foods, Walmart, and Eckerd's February 22, 2005 Motion to Dismiss
15 with Prejudice. The reply brief, if any, shall be filed no later
16 than May 26, 2005.

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18 DATED at Seattle, Washington this 6th day of May, 2005.

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21 Barbara Jacobs Rothstein
22 U.S. District Court Judge
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